



Strengthening National Implementation to Protect Cultural Heritage in times of Armed Conflict: Study on Tourism Destination in Jakarta Capital Special Region, Indonesia

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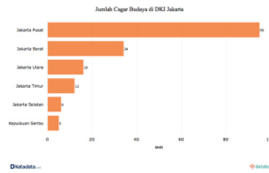
Abstract. Based on Law Number 11 of 2010 concerning Cultural Heritage, the term cultural heritage refers to the objects, buildings, structures, sites and areas of cultural heritage. All elements of cultural heritage are found in the Jakarta Capital Special Region, which is also the capital city, government city, center of economy, trade and culture for the Indonesian people. The increasing age of objects, buildings and other elements of cultural heritage completes the city of Jakarta as a city center of culture and a tourism destination. On the one hand, the increasing number of cultural heritages in Jakarta Capital Special Region is also a vulnerable issue when there is an armed conflict. In order to maintain the preservation of cultural heritage in the worst times, normative protection efforts need to be carried out. This research is normative research with a comparative approach to the analysis of the content of national regulations and humanitarian law that applies when an armed conflict occurs. From the discussion of primary and secondary legal materials, it is concluded that there is an intersection between the two legal regimes that influence each other. For this reason, it is necessary to follow up and implement laws and regulations both in the legislative and executive fields, which can produce a positive impact on the protection of cultural heritage in Jakarta Capital Special Region area, especially in the event of armed conflict.

Keywords: Armed Conflict · Cultural Heritage · Humanitarian Law · National Implementation

1 Introduction

The Jakarta Capital Special Region is an area that has a lot of cultural heritage consisting of buildings, sites, areas, and cultural objects, both tangible and intangible. The distribution of these cultural heritages is mostly found in the Central Jakarta area (Table 1) where there are no less than 95 cultural heritages (Andrea Lidwina 2020). Of these, some are cultural heritage buildings (Public.tableau.com 2022) (Table 2).

During the period 2020–2021, the Jakarta Government Culture Service has established 14 new cultural heritages (Manda Firmansyah 2022). In accordance with Law

Table 1. Total of Cultural Heritage in DKI Jakarta**Table 2.** Cultural Heritage Buildings in DKI Jakarta

Number 11 of 2010 Concerning Cultural Conservation, an effort towards conservation is made whenever artifacts are evaluated for their potential status as cultural assets. According to the Cultural Conservation Law, in order for an item to be considered a cultural heritage, it must first fulfill a number of criteria, including that it must be at least fifty years old, that it must have a particular significance for history, science, education, religion, and/or culture, and that it must have cultural significance for the community. Putting more of a stamp on the nation's character.

The number of cultural heritages in DKI Jakarta in 2022 will increase with the stipulation of three new cultural heritages: first, the establishment of a new cultural heritage structure on the Jalan Pasar Baru section with the Decree of the Governor of DKI Jakarta Number 36 of 2022; second, the establishment of a new cultural heritage structure in the Ciliwung Canal, Jalan Antara and Jalan Pasar Baru Selatan with the Decree of the Governor of Jakarta Number 44 of 2022; and three, the establishment of a new cultural heritage site in the Proclamation Park with the Decree of the Governor of DKI Jakarta Number 37 of 2022 (Jakarta 2022). By looking at the increase in the number of cultural heritages in DKI Jakarta, the goal for the DKI Jakarta area as one of the national tourism destinations is increasingly achieved. The problem is, the cultural heritage is located in DKI Jakarta, which until this writing is still the capital of the Republic of Indonesia. Not only that, but the City of Jakarta is also a city of government, where almost all State Institutions and Ministries are located in this city. Jakarta is also a tourism city, trade and cultural center (Purwanto 2021). Various infrastructures are important for the life of the nation. This situation causes the City of Jakarta to save so many important corners as an archival area not only for the citizens of Jakarta, but also for the people of Indonesia. Various museums in Jakarta still store various cultural objects (Gandhawangi 2022; Julio 2022), some of which store ancient archives about the history of the founding of this country. On the one hand, this condition is very encouraging where the storage of various cultural objects as well as the ratification of

an area as a cultural heritage area, such as the Kotatua Jakarta area (Kebudayaan, n.d.), will have a strong psychological impact on the next generation of national identity. But on the other hand, the grouping of cultural heritage has aspects that are quite vulnerable when there are worst situations that cannot be eliminated, such as the threat of armed conflict, both international and non-international.

In situations of armed conflict, the City of Jakarta, which can be said to be the "heart" of the Republic of Indonesia, is a city that must be defended and must not fall into the hands of the opponent, and must not be controlled by the opponent. The opponent's control of the city of Jakarta will result in the paralysis of the wheels of the economy and politics, which are the most dominant elements. Therefore, as a city or territory that is defended, the Government will certainly do all kinds of ways so that the City of Jakarta cannot be controlled by the enemy. In this case, it is possible that all national facilities and infrastructure located in the area function optimally as supporting components in accordance with Law Number 23 of 2019 concerning Management of National Resources for State Defense. With regard to the management of all national resources that are managed to contribute as much as possible to national defense in times of armed conflict, this paper will discuss how legislation at the national level can contribute positively to the protection of cultural objects.

2 Methods

This study is normative research, using primary and secondary data derived from scientific journal database. The approach to conduct this research using comparative content analysis on the legal instrument both at the international and national levels. The conclusion is conducted with deductive method.

3 Result and Discussion

3.1 Nexus Between the Protection of Cultural Heritage and Armed Conflict

Although armed conflict is not the preferred resolution of international disputes, the facts show that armed conflict will still occur. The threat of armed conflict itself does not have to be in the form of an international armed conflict, but also the threat of non-international armed conflict. Examples of the impact on cultural heritage caused by armed conflict in different parts of the world (Almohamad 2022; Oluranti Ojo 2022; Βασιλειάδης 2022) can be invaluable lessons. In an armed conflict, cultural heritage is an issue that is always a concern, either because of its destruction due to an attack, displacement or loss of cultural heritage objects that are transnational in nature, as well as sociological cultural impacts. Gradually, the issue of cultural heritage developed into a security issue that requires attention from and a critical approach (Marie Elisabeth Berg Christensen 2022).

In addition, history also records that the battlefield has also begun to shift to densely populated areas, which of course will also have a big impact if an attack occurs. The battlefield also does not stop at conventional battlefields, but has also penetrated the battlefield in cyberspace, with the existence of cyber warfare. The incident in Iran, can

give an illustration that there is no single device or building that can truly be free from an attack when an armed conflict is going on. Even with the advancement of digital technology that can transfer cultural heritage into a digital cultural heritage, it is time to pay attention to the protection of digital cultural heritage in situations of armed conflict; something that may not have been implied in the 1954 Hague Convention (Alcala 2022).

These facts cause the need for special measures when there is an armed conflict, so that cultural heritage can be protected from destruction, or from looting, and all other forms of loss. Based on history, the control of one party over another is not infrequently carried out by controlling, destroying, or rendering a cultural heritage inoperable. This implies that the identity of a nation can be controlled.

3.2 State Obligation to Protect Cultural Heritage in the Event of Armed Conflict

In the event of armed conflict, certain international obligations have been bound to the state parties to the Geneva Conventions of 1949, as well as to those state parties that have already ratified the Hague Conventions of 1954 and its Protocols, including its 2nd Protocol of 1999. These state parties are considered to be in compliance with these international obligations. In accordance with the principles of customary international law, these international duties ought to have been respected toward the third states as well.

In the event of an armed conflict, it is the responsibility of state governments to ensure compliance with the following rules for the preservation of cultural property: to put into practice the differentiation principle as the fundamental component of the humanitarian approach applicable in times of armed conflict. On the basis of this principle, the state is obligated to do the following:

- a. Separate civilian objects, including the cultural heritage, from military objectives and military objects;
- b. To display distinction emblem for civilian objects, including cultural property under the existing international humanitarian law that have already ratified;
- a. In other side, State must obey to the methods of warfare under humanitarian law, especially the principle of proportionality in attack;
- b. Obey the prohibition to launch an indiscriminate attack;
- c. Obey the principle of precautionary in attack;
- d. Apply the rule to determine the object under the Article 52 of the Additional Protocol I, 1977.

3.3 National Implementation

The Geneva Conventions of 1949 were ratified by Indonesia under Law Number 59 of 1958. These conventions were adopted in 1949. With Presidential Decree Number 236 of 1966, it also ratified the Hague Convention of 1954 on the protection of cultural property in the event of armed conflict. This convention was established in order to protect cultural property in the case of armed conflict. Because of this circumstance, the Conventions in question now have the status of being legally binding on the Government of Indonesia.

Despite the fact that these accords exist, the Government of Indonesia has adopted a number of national or municipal legislation concerning the cultural assets. Take, for instance, Law Number 11 of 2010 regarding the cultural heritage of the country. In accordance with the first paragraph of Article 1 of this Law, the term of "cultural heritage" refers to cultural inheritance in the following forms:

- a. Cultural heritage Objects;
- b. Cultural Conservation Buildings;
- c. Cultural Heritage Structure;
- d. Cultural Heritage Sites; and
- e. Cultural Heritage Area

In the process of determining whether places on land and/or in water have significant historical, scientific, educational, religious, or cultural qualities, it is necessary to safeguard their continued existence. These places may be found anywhere in the world. In order to carry out the provisions of this Law, the Indonesian government published Government Regulation Number 1 of 2022, which is focused on the maintenance of the National Registry and the protection of cultural heritage. This instrument is essentially issued in the form of guidance, and it requires a subsequent set of practical actions to complement the need that cultural assets, including that of the Jakarta Capital Special Region, be protected.

4 Conclusion

The Indonesia regulations which caused by ratification of international treaties and also national regulations should be supported each other and need to be completed with the practical and operational rules and measures to be implemented. Only with the completion of such measures, the protection of cultural heritage in the event of armed conflict will be better achieved.

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